## REMARKS

A total of 59 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed February 11, 2004 , wherefore reconsideration of this application is requested.

By way of the above-noted amendments, claim 1 has been amended to correct a lack of antecedent support, amnd claim 48 has been amended to address the Examiner's objections under 35 USC § 112.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced.

Referring now to the text of the Office Action:

- claim 48 stands objected to under 35 U.S.C. § 112 as failing to distinctly claim the subject matter of the present invention;
- claims 1-15, 19, 23, 27-28, 30, 32-33, 35-47, 50, 54 and 58 stand rejected under 35 U.S.C. § 102(e), as being unpatentable over the teaching of United States Patent No. 6,222,848 (Hayward et al);
- claim 1 stands further rejected under 35 U.S.C. § 102(e), as being unpatentable over the teaching of United States Patent No. 6,182, 226 (Reid et al.); and
- claims 16-18, 20-22, 24-26, 29, 31, 34, 48-49, 51-53, 55-57 and 59 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 6,222,848 (Hayward et al)

The Examiners claim rejections are believed to be traversed by the above-noted claim amendments, and further in view of the following discussion.

At paragraph 2 of the detailed action, the Examiner asserts that all of the elements of claim 1 are taken by the teaching of Hayward. However, with respect, Applicant cannot

understand the Examiner's application of the Hayward reference to the presently claimed invention. In particular:

- The Examiner has rejected claims 1-15, 19, 23, 27-28, 30, 32-33, 35-47, 50, 54 and 58 under 35 U.S.C. § 102(e), as being unpatentable over the teaching of United States Patent No. 6,222,848 (Hayward et al). However, the Examiner then relies on a second reference, namely: Tektronix, Inc. "SONET Telecommunications", 1997, in is rejections of claims 2-15, 19, 23, 27-28, 30, 32-33, 36-47, 50, 54. The Examiner apparently assumes that the teaching of the Tektronics reference was used by Hayward et al.. However, irrespective of the validity of such an assumption (which Applicant does not admit), the Tektronics reference is not part of the Hayward et al patent. As such, the Examiner's rejection of at least claims 2-15, 19, 23, 27-28, 30, 32-33, 36-47, 50, 54 is based on a combination of references, which is improper under 35 U.S.C. § 102.

- The Examiner asserts that "Hayward teaches a method of validating a connection". This is incorrect. Hayward teaches a method of mapping high-speed Ethernet frames into SONET frames for transport across a SONET network.

- Examiner equates the SONET overhead (or portions thereof) of Hayward to the Performance Monitoring (PM) information of the of the present invention in order to read Hayward onto the features of subclauses (a) and (b)(i) of claim 1. However, the Examiner then abandons this position, and instead equates the Ethernet data packets of Hayward to the PM information of the present invention in order to read Hayward onto the features of at sub-clauses (b)(ii) and (b)(iii) of claim 1.

  Without making any admissions regarding the validity of either of the positions taken by the Examiner, Applicant asserts that such an inconsistent application of the prior art is improper. It is self evident that the SONET overhead and the Ethernet data packets are in no way similar. The PM overhead of the present invention may be interpreted (albeit incorrectly) as being equivalent to either

SONET overhead or Ethernet data packets, but not both at the same time. Furthermore, it is clearly improper to hop-scotch between different interpretations of a claimed feature in order to fit a prior art reference to the various elements of a claim.

In light of the foregoing, it is respectfully believed that the Examiner's application of the Hayward reference under 35 U.S.C. § 102(e) is improper and such rejections must be withdrawn. To the extent that the teaching of Hayward et al may be applicable to the present invention under 35 U.S.C. § 103, which Applicant does not admit, such reference is disqualified on the ground that both United States Patent No. 6,222,848 (Hayward et al) and the present invention were commonly owned at the time the present invention was made. In that respect:

- United States Patent No. 6,222,848 (Hayward et al) is owned by Nortel Networks Limited by virtue of assignments recorded at Reel/Frame: 8938/0557; Corporate Name Change from Northern Telecom Limited to Nortel Networks Corporation recorded on December 23, 1999, Reel/Frame 10567/001 and Change of Name from Nortel Networks Corporation to Nortel Networks Limited recorded on August 30, 2000 Reel/Frame 011195/0706; and

- The present application is owned by Nortel Networks Limited by virtue of assignments recorded at Reel/Frame: 011503/0540

At paragraph 5 of the detailed action, the Examiner asserts that "Reid et al (Figure 5) discloses a method of validating a connection mapped between first and second end-nodes...". With respect, the Examiner's application of Reid to the present invention is unfounded.

United States Patent No. 6,182, 226 (Reid et al.) "relates generally to network security, and more particularly to a system and method of grouping networks to enforce a security policy. (Col. 1, lines 6-9). Reid et al does not attempt to validate connections. In fact, the entire focus of Reid et al is on TCP/IP networks, which are inherently connectionless. It is self-evident that, in a connectionless network, the whole notion of validating (non-existent) connections is meaningless.

FIG. 5 of Reid et al. is a flow-chart depicting "a method by which incoming data packets are processed in accordance with the present invention" (Col. 2, lines 41-42). As described at column 16, lines 20-67, when the incoming packet is received (step 80), and the region ID is obtained from the network interface (at step 82). If the packet is determined (at step 84) to be encrypted, VPN security association is retrieved (at step 86), and then the packet is decrypted (at step 88). The previously stored region ID is then replaced with the region ID of the VPN at step 90. At steps 92 and 94, the packet header is then examined to determine whether or not the packet's destination address is located within the same region as its source address, and the "router" flag is set for that region. If both of these conditions are satisfied, the system checks for a socket listening for the packet (at step 96), and checks the region associated with the packet against the region specified by the rgnbind() system call. If all of these conditions are met, the packet is forwarded in step 100.

The person of ordinary skill in the art will immediately recognise that there is no similarity whatsoever between region ID-based packet forwarding as described by Reid et al and the method of connection validation as defined in present claim 1. In particular, to the extent that packet header information can be equated to the PM information of the present invention (which is not admitted to by the Applicant) Reid et al does not extract this information from the packet in any meaningful sense. At most, the packet header is read in a conventional manner. In the same vein, forwarding of the packet does not require re-insertion of the buffered information, and Reid et al do not teach or suggest any such operation.

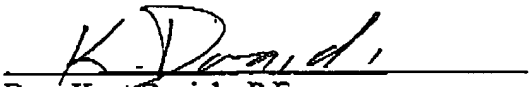
Finally, the Examiner's contention that Reid et al teach "at the second node, extracting the PM information from the data signal, where the second end-node must extract the information by decrypting it. (item 100)" is unsupported conjecture. Step 100 in FIG. 5 of Reid et al refers to forwarding of the packet, nothing more. There is no teaching or suggestion that the packet is encrypted (or re-encrypted) prior to being forwarded, and thus no teaching or suggestion of decryption at a second node. There is no teaching of re-insertion of packet header information prior to forwarding the packet (a redundant operation in the IP context of Reid et al), and thus no suggestion of extraction of such information at a second node.

In light of the foregoing, it is respectfully believed that United States Patent No. 6,182,226 (Reid et al.) does not teach or suggest the elements of the presently claimed invention, and thus cannot support a rejection of claims under 35 U.S.C. § 102(e).

In summary, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,
Kim B. Roberts et al



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